

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:05-CR-214

v.

HON. ROBERT HOLMES BELL

RICHARD BRUCE McGEE,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #78). Based on a review of defendant's motion, the Sentence Modification Report, submission by counsel for both parties, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on March 22, 2006 to 48 months custody as to Count 1 of an Indictment charging Possession with Intent to Distribute an Unspecified Quantity of Cocaine Base. Defendant was sentenced to a concurrent sentence of 48 months as to Count 2, which charged defendant with being a Felon in Possession of Firearms. Counts 1 and 2 were grouped as closely related counts for purposes of sentencing. Defendant received a 60 month consecutive sentence on Count 3, Use of a Firearm During and in Relation to a Drug

Trafficking Offense.

On January 11, 2010, the Court reduced defendant's term of custody as to Counts 1 and 2 to 39 months due to the retroactive application of Amendments 706 and 711 to the United States Sentencing Guidelines. The Sentence Modification Report prepared by the United States Probation Office calculated defendant's guideline range at that time to be 37 - 46 months based on a total offense level of 20 and a criminal history category II.

The Sentence Modification Report prepared as a result of defendant's Amendment 750 motion states that defendant's total offense level, criminal history category, and guideline range remain unchanged from the last sentence modification.

Since Amendment 750 does not result in a lower guideline range, defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10(a)(2)(B).

ACCORDINGLY, defendant's motion (docket #78) is **DENIED**.

Defendant's motion to expedite (docket #83) is denied as moot.

Date: June 8, 2012

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE